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A CORRECTION. —

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DEAR MR. EDITOR, — As soon as our mistakes are irretrievable, they stand forth to our sight flamboyant. By a perversion which wronged my memory I made George Herbert say: "Who sweeps a room as in Thy cause," instead of "as for Thy laws." Will you let me make the correction now, and oblige, Yours very truly,

O. W. HOLMES.

THE LATE LORD HERSCHELL. — The late Right Hon. Farrer Baron Herschell devoted to the service of England and of the common law a mind accurate, clear, and profound, made doubly precious by its tireless energy. His career covered a period of nearly half a century, including service as barrister, Member of Parliament, Solicitor General, and twice as Lord Chancellor during the last ministries of Mr. Gladstone. The nervous strain of this long period of unresting labor told so greatly on his strength that it was with foreboding that he accepted his position on the Anglo-American Commission, in which last service he died, deeply mourned here and in England. The Supreme Court of the United States adjourned in reverence to his memory.

To his profession Lord Herschell gave the fullness of a firm and mathematical mind His opinions, though at times prolix, are accurately and logically developed, lucid in their treatment of intricate states of fact, convincing in their exposition of the law. His power, his conscientious deference to tradition, his determined conviction, are aptly illustrated by his repeatedly quoted opinion in *Allen* v. *Flood*. His manner when hearing causes was at times strangely impatient, almost arrogant, carrying to the extreme the forensic method of arguing with the counsel. A similar unbending sternness led to his determined refusal while Lord Chancellor

to make political or family appointments to the Bench, scrupulous in regard to appointments even to the County Court Bench.

A Hebrew by birth, Lord Herschell was the third of his race and generation to do illustrious service to the law. Jessel, Benjamin, and Herschell have all impressed their genius on the character of the common law, enriching it with their learning. Lord Herschell disclaimed his right to the name of scholar, but his great labors attained results often profoundly scholarly. His heart was with the cause of legal learning, and he actively aided the Selden Society, and the Society for the Study of Comparative Legislation. He had a lively interest in the Harvard Law School, and in the last autumn spoke with enthusiasm of the hope that he might soon address the school. To this end plans were being entered into at the time of his death. This interest of his brings back with greater force to us a sense of personal loss.

THE ASSETS OF A DEFUNCT CORPORATION. — The Queen's Bench Division in Bankruptcy has recently decided that choses in action in the form of money claims held by a corporation against a bankrupt, survived the dissolution of the corporation which owned them, and passed to the Crown as *bona vacantia*. *Re Higginson and Deane*, 79 L. T. Rep. 673. The case marks an abandonment of one ancient rule, and a rigid enforcement of another doctrine of the severest common law. It is not a new idea to abandon the one rule, and to say that a chose in action of a corporation does not die with it; upon the dissolution, then, the chose in action must be treated like any other personalty, and no doubt the common law held that all personalty of a defunct corporation belonged to the Crown. A corporation, unlike a natural person, has no legal successor. This unfortunate rule is changed in all of our States by statutes providing for the appointment of a receiver, who in various ways is given the power to use all property for the payment of debts and to distribute the residue among the shareholders. In the absence of statute, or in cases not covered by the statute, courts of equity have taken a hand in modifying the law. They have in effect imposed a trust upon all the corporate property for the benefit, first, of creditors, and second, of shareholders. This trust can be enforced whenever the court can control either the holder of the legal title or one who, like a receiver, has power to deal with it. *Bacon* v. *Robertson*, 18 Howard, 480; *Wood* v. *Dummer*, 3 Mason, 308. The relief thus afforded is subject to two important limitations. The court will not disturb a *bona fide* purchaser for value. *Powell* v. *No. Missouri R. R. Co.*, 42 Mo. 63. It cannot command a person over whom it has no power. Lewin, Trusts, ninth ed., 28, 29. Under this last head the principal case must fall. The Crown or the State cannot be sued, nor can it be held to the performance of a trust; and against it the shareholders and creditors can have no remedy.

A few cases have gone a step beyond the limits here laid down. *Lenox* v. *Roberts*, 2 Wheat. 373; *Bacon* v. *Cohea*, 20 Miss. 516. A corporation, before dissolution, assigned a note without indorsement to a purchaser, and the purchaser was allowed to recover upon it in equity after the dissolution of the corporation. It is not clear whether these courts took the view that the note survived the death of the corporation or not. If the legal claim simply became extinct, the court was doing a bold act, but yet an act within its powers, in creating a new claim in